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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/707,615

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Richard Morabito

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ARTZ & ARTZ, P.C.

28333 TELEGRAPH ROAD, SUITE 250

SOUTHFIELD, MI 48034

EXAMINER

ABRAHAM, TANIA

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/707,615	Applicant(s) MORABITO ET AL.	
	Examiner Tania Abraham	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 17-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 March 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

1. Claims 17-20 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse during a telephone conversation with Thomas Donohue on March 7, 2006.

Drawings

2. The replacement drawing sheet received on March 20, 2008 is acceptable.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-11 and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tiesler et al in view of Jakubiec et al and Fluharty et al. Tiesler et al discloses a center console for a front row of seats having a bin structure 14 – being a lower console member, a body ring 16 – being an upper console member, and a cover 20 – being a console lid. The lower console member 14 has mounted to its forward end, a flow-through assembly with an incorporated cupholder 50. The upper console member 16 includes outer walls 44 and inner walls 40 that form an engagement sleeve for lower console member walls 26, but excludes horizontal top and bottom walls, thereby providing a hole for direct access to the lower console member. The console lid rotates about the upper console with a hinge leaf 64 and includes a padded armrest. In its assembled configuration, the upper console member sits on the lower console member with its walls extending to engage those of the lower console member. The engagement of the upper console member walls to those of the lower console member forms a contiguous extended depth storage bin with substantially increased storage; wherein the upper console member's inner walls 40 is shown in figures 3 and 4 to be reasonably close to the claimed height of at least 25% of the contiguous extended depth storage bin. The height range of the upper console member inner walls is considered a matter of design choice since it is based on its suitability for achieving a stable assembly of the extended depth storage bin. Therefore, modifying Tiesler et al's upper console member inner walls to be at least 25% of the extended depth storage bin's

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height would have been an obvious design choice to a person of ordinary skill in the art for providing inner walls with enough length to achieve a stable engagement between the console members which make up the extended depth storage bin.

Tiesler et al discloses the body 12 which supports the console “is adapted to be mounted in a convenient place”, but only suggests the vehicle floor as a location (col. 1, lines 63-65). Tiesler et al also discloses the upper console 16 sits on the lower console when assembled, but does show or suggest a pivotal connection between the two. Jakubiec et al teaches having a center console with attaching means 28 – being an element of the joining frame 26, that allow the console “to be mounted to the front seat inboard risers 56.” (Col. 2, lines 54-57) The joining frame 26 is broadly interpreted to encompass the “pan frame assembly” of claim 6. Jakubiec et al also teaches having an upper console member 16 rotating about a lower console member 12 with hinge pin 94 to allow the upper console member 16 to move between a horizontal closed position and a vertical open position (col. 3, lines 6-13). It would have been obvious to one skilled in the art at the time of invention to modify the console of Tiesler et al with a joining frame according to Jakubiec et al’s teaching in order to provide attachment of the console to the inboard risers of a front seat; and to modify Tiesler et al’s console with a pivotal connection according to Jakubiec et al’s teaching in order to allow the upper member to move between closed and open positions.

Tiesler et al discloses the inner walls 40 of their upper console 16 contact the walls 26 of the lower console, but does not show any features for locking the walls together. Fluharty et al shows the walls of an upper console member 50 having

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retaining means detents 47, or locking tabs that engage the walls of a lower console member 24 to retain the upper member 50 in place. It would have been obvious to one skilled in the art at the time of invention to modify Tiesler et al's console with retaining means according to Fluharty et al's teaching in order to retain the upper member in the lower member.

With respect to claims 8 and 9, it is well known in the art to include conventional features like trays and dividers to vehicle consoles to provide additional storage cavities for the user, as shown by Jakubiec et al (col. 1, lines 60-64) and references previously cited.

6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tiesler et al and Jakubiec et al as applied to claims 1-11 above, and further in view of Klopp, III et al. Tiesler et al discloses everything previously described except for an air vent assembly attached to their console. Klopp, III et al (fig. 1-7) shows a vehicle console with a rear portion 150 mounted to the console having air conditioning vents under the pivoting means of an upper console member 108 for directing air to the rear of the vehicle compartment (col. 4, lines 45-49). So, it would have been obvious to a person with ordinary skill in the art at the time of invention to modify Tiesler et al's console with an air vent assembly as taught by Klopp, III et al. to provide air conditioning to the occupants in the back row of a vehicle.

Response to Arguments

7. Applicant's arguments filed March 20, 2008 have been fully considered but they are not persuasive. In response to Applicant's argument that Tiesler et al does not teach the three rotating base elements and an extended depth storage bin as claimed, the structure disclosed in the Tiesler et al reference meets the claim limitations of the lower and upper base and the lid, including their rotating capabilities. As such, there is no structural difference between the console of the claimed invention and the console of the prior art; thus, the bin of the claimed invention is not patentably distinguished from the bin of the prior art. With respect to Applicant's arguments regarding the installation positions, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania Abraham whose telephone number is 571-272-2635. The examiner can normally be reached on Monday - Friday, 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. A./
Examiner, Art Unit 3636
July 21, 2008

/DAVID DUNN/
Supervisory Patent Examiner, Art Unit 3636